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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on
Economic, Social and Cultural Rights

LIBYAN ARAB JAMAHIRIYA

1. At its 20th and 21st meetings held on 13 May 1997, the Committee considered the initial report of the Libyan Arab Jamahiriya on articles 1 to 15 of the Covenant (E/1990/5/Add.26) and at its 26th meeting held on 16 May 1997, adopted the following concluding observations.

A. Introduction

2. The State party informed the Committee at the very last moment that its representatives could not appear as scheduled in the first week of the session owing to travel problems resulting from the Security Council embargo. The Committee decided that, if it was left with no other option, it would, under the circumstances, proceed with the adoption of concluding observations in the absence of a delegation. This proved unnecessary when the State party agreed to the consideration of the report in the third week of the Committee's session.

3. The Committee appreciates that a delegation was sent to present the report, but regrets that the State party did not provide written answers to the list of issues and that the delegation also failed to answer many of the questions asked by Committee members during the dialogue. The Committee also regrets that the report provided no information on articles 6, 7, 8 and 15.

B. Positive aspects

4. The Committee expresses its satisfaction that in its report the State party reviews its implementation of the provisions of the Covenant article by article, that it complied with the Committee's guidelines and that it was

prepared by experts in various fields, although it regrets that the report was incomplete with regard to articles 6, 7 and 8 and that a discussion of article 15 was altogether lacking in the report, even if the delegation supplied answers to the Committee's questions about article 15 during the dialogue.

5. The Committee welcomes the assertion in the report that the Covenant forms an integral part of the State party's legislation and is binding on individuals and organizations, including official bodies.

6. The Committee notes the affirmation contained in the State party's report that legislation guarantees every citizen the right to health care and social and cultural welfare, as well as the right to education, to work, to freedom of association, to form unions, federations and professional associations and to seek legal redress for any infringement of rights recognized by law.

7. The Committee takes note of the statement in the report that the State party's legislation makes provision for the equal enjoyment by men and women of all economic, social and cultural rights. The Committee welcomes signs of the advancement of women towards equality, and in particular that the Congress contains women among its members, that they have the right to be elected to posts and that they also participate in trade unions and professional associations.

8. The Committee notes with satisfaction the significant progress that the State party has made in the fields of social security and health care, as well as concerning family matters, especially in the areas of divorce and care for children and orphans. The Committee also notes with satisfaction the State party's efforts in the fields of public housing and home ownership.

C. Factors and difficulties impeding the implementation of the Covenant

9. The Committee notes that fluctuations in world prices for hydrocarbons have resulted in unpredictable inflows of foreign exchange. This has resulted in cash flow problems which have affected the State party's ability to meet its financial obligations regularly.

10. The services industry accounts for approximately 30 per cent of GDP while the contribution of agriculture remains negligible, despite efforts by the Government to promote this sector with the aim of achieving self-sufficiency in food production.

11. To date, there is little evidence that progress is being made in implementing the 1992 privatization law. The State party's attempts at economic restructuring and the abolition of State import and export enterprises have been confined to the consumer goods sector.

12. The Committee notes the State party's assertion that the Security Council's imposition of an aerial embargo on the State party has adversely

affected the economy and many aspects of the daily life of its citizens, and impeded the full enjoyment by the State party's citizens of their economic, social and cultural rights. .

D. Principal subjects of concern

13. The Committee notes with concern that despite the existence of Libyan legislation guaranteeing full equality between men and women and banning any discrimination against women, the State party has advanced certain arguments against the enjoyment by women of certain family and civil rights on the basis of Sharia law. The Committee underlines, however, the fact that the Covenant is predicated on the principles of absolute non-discrimination against women and their full enjoyment of all the rights enjoyed by their male counterparts.

14. The Committee has reason to believe that in the field of labour rights, notably concerning trade union activity, the right to strike and the right to conduct free collective bargaining - all rights which are guaranteed by legislation in the State party - the gap between law and practice is quite significant and that efforts need to be undertaken so that practice conforms to existing legislation. The Committee is troubled by the delegation's assertion that strikes do not occur in the State party because the conditions which cause strikes do not exist. It is the Committee's view that the freedom of workers to form independent trade unions to protect and advance their interests and ultimately to have recourse to strike is an indispensable right under the Covenant.

15. The Committee expresses its concern at reports that foreign workers who have come to work in the State party in connection with the Great-Man-Made River project are living and working in appalling conditions. According to a report of the Committee of Experts on the Application of Conventions and Recommendations of the International Labour Organization (ILO), foreign employees in the State party who are accused of infringing disciplinary rules may be punishable by penalties of imprisonment which can include compulsory labour. According to the same ILO report, the State party also maintains different rates of payment of pensions for foreign and Libyan workers, which, in the view of the Committee, is discriminatory.

16. The Committee also expresses its concern at reports that during the second half of 1995 thousands of foreign workers were arbitrarily expelled from the State party and were not given adequate compensation. It further regrets that there was no possibility for a legal or judicial remedy against those expulsions. The Committee is alarmed that the justification given by the delegation for this action was that foreign workers were the cause of many of the State party's social problems, such as violent crime, immoral activities, black market transactions, drug trafficking, trafficking in women and the spread of communicable diseases. Such a rationale is unacceptable to the Committee and a clear violation of the Covenant. In this regard, the Committee draws the attention of the State party to the case of approximately 200 Palestinian families who were forcibly evicted to a point near the Egyptian border and who had to live in utterly degrading conditions for two years before they were allowed to re-enter the State party.

17. The Committee is concerned that the State party's delegation views HIV/AIDs as a problem essentially relating to foreigner workers. It is also concerned that the delegation of the State party has indicated that foreign workers who are working in the State party with valid work permits and subsequently become HIV-positive are usually deported. The Committee is of the view that this action is discriminatory and inconsistent with the provisions of the Covenant.

18. The Committee expresses its concern over reports of censorship against expressions of a literary and artistic nature, and at the State party's notion of "cultural security" to justify such censorship.

E. Suggestions and recommendations

19. While aware of the important strides made to improve the status of women, the Committee nevertheless calls for an end to all remaining aspects of discrimination against women.

20. The Committee recommends that energetic efforts be undertaken to close the gap which still exists between the aims and purposes of Libyan legislation and the reality of its application in labour matters, in particular with regard to union rights, the right to strike and the right to free collective bargaining.

21. It is further recommended that the status and working conditions of foreign workers be improved without undue delay, and that these persons be treated with dignity and fully benefit from the rights enumerated in the Covenant.

22. The Committee recommends that measures be taken to ensure better and more widespread education, especially in rural areas, as well as to health care, social security and housing.

23. The Committee recommends that foreign workers who are employed in the State party with valid work permits should not be deported if they become HIV-positive while in the country. It further recommends that the State party not treat the HIV/AIDS problem as one essentially relating to foreigners and that it take energetic steps by way of a publicity campaign in the media to inform its population of the nature of the disease, its modes of transmission and what steps can be taken to avoid contracting it.

24. The Committee requests that the State party provide the Committee with all of the written answers promised by the delegation. It also requests that the State party's second periodic report contain more information regarding actual practice and the effective implementation of the rights guaranteed by the Covenant and include information on action taken with regard to the present concluding observations.